IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 430 of 1999

Between:

D. Gopalakrishna Murthy S/o. Subramanyam,
PET Pattabhipuram High School, Guntur.

..... PETITIONER

AND

1 The District Educational Officer
Guntur.
2 The Correspondent & Secretary, Pattabhipuram High School,
Guntur.
3 The General Secretary, Hindu College & High School Council
Guntur.
4 Jupudi Rangaraju Advocate & Enquiry Officer,
Railpet, Guntur.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring that the enquiry sought to be conducted against the petitioner is contrary to the mandatory provisions of A.P. Education Act and the Rules framed there under consequently declaring that the 4th respondent is not entitled to proceed with the enquiry.

Counsel for the Petitioner: MR.V.S.R.ANJANEYALU

Counsel for Respondent No.1: G.P. for School Education

Counsel for Respondent No.2: Mr.P.Rama Sharana Sharma

Counsel for Respondent No.3: MR.D.V.SITARAMAMURTHY

Counsel for Respondent No.4: None appeared.

The Court made the following

ORDER:

The writ petition is filed seeking a Mandamus declaring the enquiry sought to be conducted against the petitioner is contrary to the mandatory provisions of A.P. Education Act and Rules made thereunder and consequently to declare that the fourth respondent is not entitled to proceed with the enquiry.

Admittedly, the petitioner is a Physical Education Teacher working with the second respondent-Pattabhipuram High School. While so, an enquiry is sought to be conducted for certain mis-conducts alleged against him. While doing so, the fourth respondent was appointed as an enquiry officer.

There is no dispute as to the fact that the fourth respondent is a practicing Advocate and does not fit into Rule 7(2) of the Andhra Pradesh Education Rules (for short 'the Rules').

The said Rule contemplates the appointment of a superior officer as an enquiry officer. In other words, only a person who is superior in rank than to that of the petitioner alone can be appointed as an enquiry officer. The law is well settled in this regard. An outsider unconnected with the job or who is not a superior to the delinquent officer can be appointed as an enquiry officer.

In this case, admittedly fourth respondent is only a practicing advocate and the petitioner is pitted against a legally trained person to face the enquiry. Therefore, I am of the considered opinion that such a course of action adopted by the

Management does not stand the scrutiny of law and is contrary to the provisions of Rule 7(2) of the Rules. Hence, the action of the respondents in appointing the fourth respondent to proceed with the enquiry is declared as arbitrary and illegal.

The writ petition is allowed as prayed for. However, this order will not preclude the Management from conducting the enquiry for the mis-conducts alleged against the petitioner, by appointing a suitable person as an enquiry officer as contemplated under Rule 7(2) of the Rules.

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C.V. RAMULU, J

Date: 24th June, 2005

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The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Friday, the Twenty Fourth day of June, Two thousand and Five.

ASSISTANT REGISTRAR

To

1. The District Educational Officer, Guntur.
2. The Correspondent & Secretary, Pattabhipuram High School, Guntur.
3. The General Secretary, Hindu College & High School Council, Guntur.
4. Jupudi Rangaraju Advocate & Enquiry Officer, Railpet, Guntur.
5. Two CCs to G.P. for School Education, High Court Buildings,

Hyderabad (OUT).

6. Two CD copies